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RIGHT OF PUBLIC SERVICE COMPANIES TO SERVE THEMSELVES. — A decision absolutely startling in its significance was rendered lately by the Supreme Court of Illinois. The Constitution of Illinois provides that "All elevators or warehouses where grain is stored for a compensation . . . are declared to be public warehouses." In 1896 the proprietors of nine large elevator companies in Chicago were enjoined from mixing their private grain with other grain stored in their elevators. While this case was on appeal the general assembly passed a law authorizing such mingling by owners of public elevators. When proceeded against for contempt in disregarding the injunction, the defendant set up this enabling act; but the court held that just as the original actions of the defendant were unconstitutional, so also was the enabling act of the assembly. *Hannah* v. *People*, 64 N. E. Rep. 776.

It is to be noted that the defendant was acting in two capacities, as a public warehouseman, and as a private dealer in grain; and the decision distinctly limits his right so to act. In spite of the apparent breadth of the doctrine advanced, the court could hardly hold that a railroad must not transport and sell its coal in competition with other coal companies; or that a telegraph company must not use its wires for its own messages; or that a water company must not supply water to a hotel which it owns. Yet there must be some limit to the right of a company in a public calling to foster its own interests in dependent private callings. Obviously the railroad could not always transport its own coal first when other coal was waiting, nor could the telegraph company keep its wires so busy that the public service would be seriously retarded.

Regarded in detail the principal case is somewhat peculiar. Had the legislature enacted what the court has decided, it would have been a valid exercise of the police power. See *Munn* v. *Illinois*, 94 U. S. 113. For the opportunity to commit fraud was peculiarly tempting, and no doubt the defendant could and did, as a warehouseman, give himself special privileges as a dealer in grain. But, strictly, a court of its own motion has no police powers, and the decision must be regarded as a most liberal construction of the constitutional declaration that the maintaining of grain elevators is a public calling. Even so, the decision is very strong because it is based, not on actual misconduct, but on the temptation thereto. This is certainly further than the law has yet gone in its regulation of public service companies, though it is not further than it may perhaps eventually go. For example Art. 17, § 5 of the Constitution of Pennsylvania forbids common carriers from engaging directly or indirectly in mining articles for transportation over their lines. As to the slight effect of this prohibition, see Report of the Industrial Commission, Vol. XIX, p. 447.

With regard to the service due to rivals — a topic closely connected with this case — the law apparently holds that if they come as rivals, to compete in the public calling, service may be refused. See *Petition of Philadelphia, M. & S. St. Ry. Co.*, 53 Atl. Rep. 191 (Supreme Court of Pennsylvania). But if they come as ordinary members of the public, they must be accommodated. See *Rogers Locomotive, etc., Works* v. *Erie R. R. Co.*, 20 N. J. Eq. 379. This is true, even though such service increases the efficiency of a dependent private calling carried on by the rival at the expense of a similar private calling of the defendant's. *People* v. *Hudson River Tel. Co.*, 19 Abb. N. C. (N. Y.) 466. On the other hand, it is not unjust discrimination for a railroad to carry supplies for its own eating-house free, while charging its rivals regular freight rates. *Kelly* v. *Chicago, etc., R. R. Co.*, 93 Ia. 436. Apparently the effect of the decision in the principal case will be to add a new limitation to the law of public service. Instead of being "Serve the public, and incidentally yourself," it will be "Serve the public, and incidentally yourself only if there is no strong temptation to prefer the latter service."

ADMIRALTY JURISDICTION OVER TORTS. — A late decision in Hawaii fixes a new restriction upon the field of maritime tort. *Campbell* v. *H. Hackfeld & Co., Ltd.* (U. S. Dist. Ct. Hawaii, Oct. 21, 1902). The defendant corporation had contracted to unload a vessel lying within the navigable waters of the United States, and employed the plaintiff as a laborer in the undertaking. While working in the ship's hold, the plaintiff was injured by the defendant's negligence. The court held that, as the relation between the parties was not of a maritime nature, admiralty had no jurisdiction.

It has hitherto been considered settled law that admiralty jurisdiction over torts depends solely on the place where the tort is committed. See *The Plymouth*, 3 Wall. (U. S. Sup. Ct.) 20; *The Strabo*, 90 Fed. Rep. 110. In every instance which has been found, however, a maritime relation such as is required by the court in the principal case has in fact existed. The question of its necessity has, consequently, never before been actually decided. The novelty in the view of the court is that jurisdiction in torts, as in contracts, should extend only to cases in which the par-